

<b>Date of Meeting</b>	23 February 2023
<b>Application Number</b>	PL/2022/09068
<b>Site Address</b>	Land adjacent Woodpeckers, Berhills Lane, Seend, Melksham, SN12 6RR
<b>Proposal</b>	Erection of two dwellings (resubmission of PL/2021/11736)
<b>Applicant</b>	Mr Sleightholme and Mrs Mills
<b>Town/Parish Council</b>	SEEND
<b>Electoral Division</b>	Devizes Rural West
<b>Grid Ref</b>	53.401329, -5.580514
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Meredith Baker

### Reason for the application being considered by Committee

This application has been brought before the Committee at the request of Councillor Reay should the application be recommended for refusal, on the basis that the applicant has provided evidence that shows the site comprises brownfield land and as such complies with Core Policies 1 and 2 in the Wiltshire Core Strategy, Policy SP11 of the Seend Parish Neighbourhood Plan and the identified paragraphs of the National Planning Policy Framework.

#### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material consideration, and to consider the recommendation that the application be refused planning permission.

#### 2. Report Summary

The proposed development would result in the erection of two dwellings outside the recognised Limits of Development (on land that is not considered to be 'brownfield') in conflict with the Settlement Strategy for Wiltshire as set out in Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy and Policy SP11 of the Seend Parish Neighbourhood Plan. With significant weight being afforded to the Seend Parish Neighbourhood Plan in line with Paragraph 14 of the National Planning Policy Framework (NPPF), which directs development to the Limits of Development, or involves the re-use of brownfield land or a rural exception site, the harm of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the NPPF as a whole (paragraph 11 d) ii).

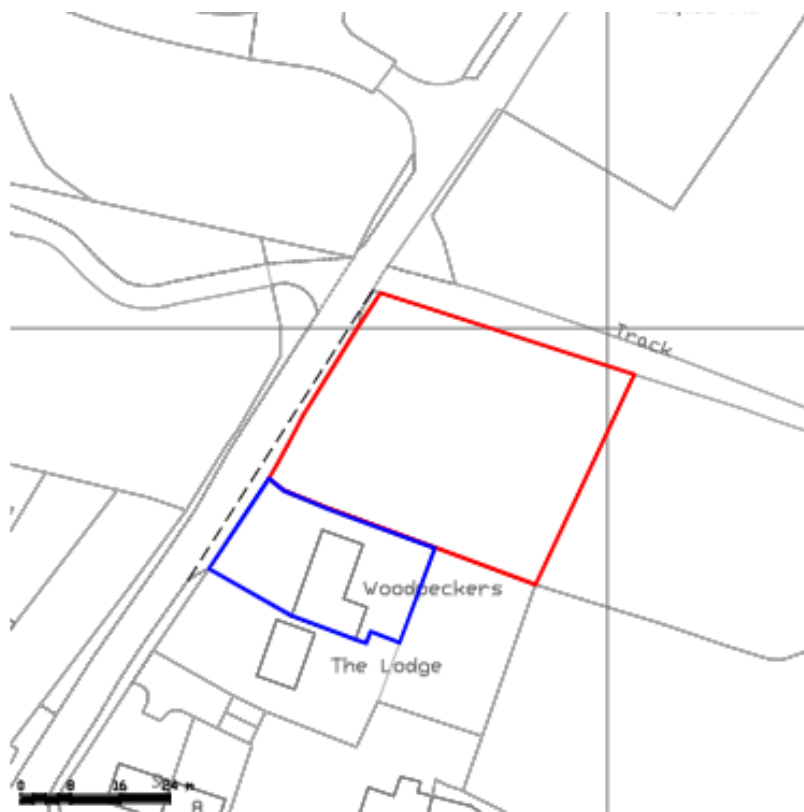
It is also deemed that by reason of its siting, design and layout of the dwellings and residential plots together with the associated residential paraphernalia within the open countryside, the proposal would be harmful to the visual amenities of the area and to landscape character. Furthermore, the proposal would result in the elongating of the existing built form into an identified landscape gap and would not enhance the character or appearance of the area contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy, Policy SP4 of the Seend Parish Neighbourhood Plan and the NPPF.

Finally, by reason of the distance to local services, facilities and amenities, the proposal would result in a heavy reliance of use of the private motor transport for the majority of day-to-day activities in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the NPPF.

### 3. Site Description

The application site comprises a parcel of land to the north of the dwelling of Woodpeckers (this land belongs to the property owners). The land is alleged to be currently used for residential purposes - this issue will be explored further as it is considered by the local planning authority to be agricultural land. The site is bounded by trees to the north and south, with a small woodland area to the east. To the east, the site is bounded by hedgerow and post-and-rail fencing which is adjacent to the highway of Berhills Lane. The application site is situated at the edge of the cluster of dwellings forming the hamlet of Sells Green whereas to the north, east and west lies agricultural land.

Below is an extract from the submitted Location Plan that shows the context of the site.



### 4. Planning History

PL/2021/11736 – Erection of two dwellings – REFUSED – 29.03.2022

It should be noted that the previous refusal was for a virtually identical scheme, with the dwellings in the same location and of the same layout as currently proposed. Only very minor changes are proposed on the current application, such as amended materials to the access point, the re-location of the shared driveway gate and the removal of the boundary treatment to the rear gardens.

The refusal reasons for the above application are identical to those recommended this time around, namely:

1. The proposed development, involving the erection of two dwellings outside of the defined Limits of Development, would conflict with the Settlement Strategy for Wiltshire, as set out in Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy and Policy SP11 of the Seend Parish Neighbourhood Plan. With significant weight being afforded to the Seend Parish Neighbourhood Plan in line with Paragraph 14 of the National Planning Policy Framework, which directs development to the Limits of Development, the re-use of brownfield land or a rural exception site, the harm of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the policies in the National Planning Policy Framework (2021) as a whole (paragraph 11 d) ii). There are no exceptional circumstances or material considerations which justify a departure from the development plan and National Planning Policy Framework and the approval of the proposed development. It would therefore be contrary to the Core Policies 1 and 2 in the Wiltshire Core Strategy, Policy SP11 of the Seend Parish Neighbourhood Plan and the identified paragraphs of the National Planning Policy Framework.
2. The proposed development, by reason of the siting, design and layout of the dwellings and residential plots together with the associated residential paraphernalia within the open countryside, would be harmful to the visual amenities of the area and to landscape character. As such, the proposal would not be sympathetic to nor would it enhance the character and appearance of the area. Furthermore, it could not be successfully integrated within the landscape and elongate the existing built form into an identified landscape gap. The proposed development is therefore contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy, Policy SP4 of the Seend Parish Neighbourhood Plan and the National Planning Policy Framework (2021).
3. The proposed development, by reason of the distance to local services, facilities and amenities, would likely result in heavy reliance on the use of private motor transport for the majority of day-to-day activities, which is in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the National Planning Policy Framework (2021).

## **5. The Proposal**

The application seeks planning permission for the erection of two, three-bedroomed dwellings and associated vehicular access. The three-bedroomed dwellings would be two storey in height, in an 'L' shape, and separated by a shared access/driveway which runs to the rear of the site with the provision of two vehicular parking spaces per dwelling.

Proposed scheme:



PROPOSED SITE PLAN



FRONT ELEVATION @ 1:100 (COTTAGE ONE)  
(COTTAGE TWO HANDED)



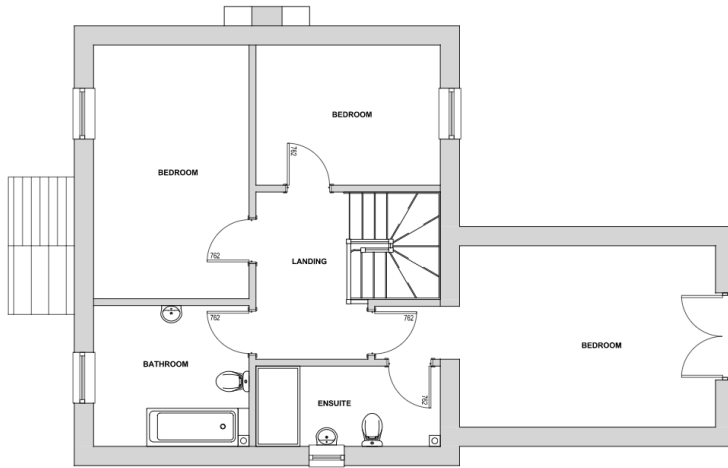
SIDE ELEVATION @ 1:100 (COTTAGE ONE)  
(COTTAGE TWO HANDED)



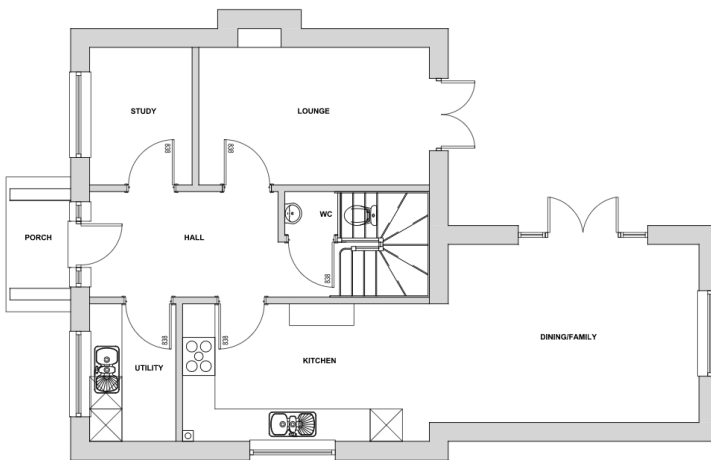
REAR ELEVATION @ 1:100 (COTTAGE ONE)  
(COTTAGE TWO HANDED)



SIDE ELEVATION @ 1:100 (COTTAGE ONE)  
(COTTAGE TWO HANDED)



FIRST FLOOR PLAN @ 1:50 (COTTAGE ONE)  
(COTTAGE TWO HANDED)



GROUND FLOOR PLAN @ 1:50 (COTTAGE ONE)  
(COTTAGE TWO HANDED)

## 6. Planning Policy

### National Planning Policy Framework (NPPF)

Section 2 (Achieving sustainable development)

Section 4 (Decision-making)

Section 5 (Delivering a sufficient supply of homes)

Section 7 (Ensuring healthy and safe communities)

Section 9 (Promoting sustainable transport)

Section 11 (Making effective use of land)

Section 12 (Achieving well-designed places)

Section 14 (Meeting the challenge of climate change, flooding and coastal change)

Section 15 (Conserving and enhancing the natural environment)

Planning Practice Guidance (PPG)

National Design Guidance

### Wiltshire Core Strategy (WCS):

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy

Core Policy 15: Melksham Community Area

Core Policy 41: Sustainable Construction and Low Carbon Energy

Core Policy 44: Rural Exceptions Sites  
Core Policy 45: Meeting Wiltshire's Housing Needs  
Core Policy 48: Supporting Rural Life  
Core Policy 50: Biodiversity and Geodiversity  
Core Policy 51: Landscape  
Core Policy 57: Ensuring High-Quality Design and Place-Shaping  
Core Policy 60: Sustainable Transport  
Core Policy 62: Development Impacts on the Transport Network  
Core Policy 64: Demand Management

#### Seend Parish Neighbourhood Plan 2020 - 2030

Policy SP1: Locally Distinctive, High-Quality Design  
Policy SP4: Landscape and Local Key Views  
Policy SP5: Parish Green Infrastructure and Biodiversity  
Policy SP9: Pre-application Community Engagement  
Policy SP10: Community Led Affordable Housing Delivery  
Policy SP11: Sustainable Development in Seend Parish  
Policy SP12: Custom and Self-build Housing  
Policy SP13: Climate Change and Sustainable Design  
Policy SP14: Impact of Development on Highways and Traffic

#### Other Documents and Guidance

Waste Storage and Collection: Guidance for Developers  
Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016)  
Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011)

### **7. Consultation responses**

Seend Parish Council: "This is a resubmission which the PC approved in 2021.

The site where these two houses would be built is most definitely an existing garden and has been used as that for at least 10 years. Local knowledge and previous owner being known to many residents and councillors can account for that. Further information which has been submitted with the application can also confirm this. The land is part of the original (now demolished) house and has the visual appearance of a garden and cannot be described as open countryside – it belongs to the original house that was demolished when Woodpeckers and The Lodge was built. It is not an agricultural site. It is an existing garden utilising a brownfield site. It cannot be in open countryside as there are other buildings the other side of the disused railway which runs alongside this garden. There were no issues when Woodpeckers and The Lodge were built and that precedent should apply when consideration is given to this application for a further two houses.

Woodpeckers and The Lodge were built 10 years ago and these two houses would adjoin them (detached) continuing along Berhills Lane. The field boundaries made by the former railway line would be maintained so it would not be detrimental to the immediate vicinity and would not cause substantial harm to the visual amenity. These houses would have a separate access, just like Woodpeckers and The Lodge (set in landscaped plots) with parking repositioned to the rear allowing more screening to the front. There were no Highway concerns in the previous 2021 application and there is good visibility from this new build just like Woodpeckers/The Lodge access. There are no pavements outside Woodpeckers and The Lodge so this should not be an issue with these two new houses. It should not be assumed that there would be a reliance on the use of a private car as the bus stop on the A365 is less than a 5 minute walk, just like Woodpeckers and The Lodge, and local amenities are

immediately to hand in the Sells Green/Martinslade hamlet or in Seend village.

The houses would lie in a cluster of dwellings and would be part of an existing hamlet so would not have a detrimental impact on the visual amenity in the area nor detract from the character of that site. The houses would have access to public transport and amenities just a 5-minute walk away, just like Woodpeckers and The Lodge. The A365 is just a few minutes' walk away where there are bus stops, a pub, a caravan and camping site, a granite/stone workshop and shop, a small industrial estate together with the K&A canal. The towpaths and Spout Lane are all within a 5-minute walk which Sells Green, Martinslade, canal boaters, bus users and walkers use frequently, if not daily, to use the amenities (PO/shop/café, church, community centre, Lye playing field, tennis courts and school) in Seend. This supports the houses being in a sustainable location where they will maintain the viability of the rural community.

These two new houses would contribute greatly to the 30 that Seend is expected to find and, these, along with the others which have been approved, will go a long way to helping Seend reach its target whilst sustaining development and contributing to the viability of local services.

For these reasons, the Parish Council would encourage Wiltshire Council to take into account local knowledge regarding the fact these houses would be built in an existing garden and approve this application.”

Public Protection: “Thanks for consulting Public Protection in respect of this application. I would look to condition any planning permission granted with our standard hours of activity in order to minimise impact on local amenity: all construction work to be between the following hours; 8am – 6pm Monday to Friday, 8am – 1pm Saturdays and no working on Sundays or Bank Holidays.

I would also request a condition to prohibit burning of waste materials on the site during construction.”

Highway Authority: “I am happy to adhere to the highway comments raised to the previous application:

Given the low number of vehicle movements associated with two residential units I am happy to accept that the adjacent road network is able to accommodate the additional movements.

The layout drawing shows the correct number of parking spaces including turning and an electric charging point. I also note that a bin collection point is being provided at roadside.

Therefore, based on the information provided I am happy to offer no highway objection subject to the following:

The development hereby permitted shall not be occupied or first brought into use until the area between the nearside carriageway edge and a line drawn 2.4m parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 600mm above the nearside carriageway level and maintained as such thereafter.

REASON: In the interests of highway safety.

The development hereby permitted shall not be first brought into use/occupied until the first 2m of the access, measured from the edge of the carriageway and, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.  
REASON: In the interests of highway safety

#### INFORMATIVE

• The application involves an extension to the creation of a new vehicle access and dropped kerb. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) and/or 01225 713352 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.

Ecology Officer: Objection on the basis of insufficient information regarding the green infrastructure corridors being protected and being enhanced.

### 8. Publicity

The application has been advertised by letter to local residents and by site notice. Two third party representations have been received raising the following (in summary):

- There is no green planning notice on site.
- Additional entrance in this location could be a potential for more road traffic accidents.
- Concern was raised under planning reference PL/2022/00333 (an application at Land adjacent to 16 Sells Green) by the Highway Authority for an increased use of an access onto Berhills Lane.
- There is no footpath leading from the proposed development to the bus stop in Sells Green.
- If the application is granted it is essential that the speed limit of this section of Berhills Lane is put in place.
- Fencing should occur on the northern side to screen lighting from the maid road affecting the property of Equestria.
- Existing northern boundary fence should be retained on south side of new fence for historical reasons and retain the rural nature of the track drive to the track to the rural holiday let of Equestria Barn.

### 9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

#### Principle of Development

- Wiltshire Core Strategy (WCS)

Core Policy 1 'Settlement Strategy' of the WCS outlines a settlement strategy which identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. Core Policy 2 'Delivery Strategy' of the WCS outlines there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages and development should be restricted to



within the limits of development other than in exceptional circumstances (in circumstances as permitted by other policies within this plan, identified in paragraph 4.25).

The site lies within a cluster of dwellings forming the hamlet of Sells Green, which falls within the Melksham Community Area, however the settlement is not identified for any type of growth by the settlement strategy (set by Core Policy 15 'Spatial Strategy; Melksham Community Area'). Therefore, for the purposes of assessing the planning merits of the proposal, the site falls within the 'open countryside'.

Core Policy 2 states that development outside of the limits of development will only be permitted where it has been identified through community-led planning policy documents including neighbourhood plans, or a subsequent development plan document which identifies specific sites for development. Development proposals which do not accord to Core Policy 2 are deemed unsustainable and as such will only be permitted in exceptional circumstances under the exception policies of the WCS. In this instance the proposal would not fall within any of the exception policies as it is not a rural exception site nor a conversion or re-use of a rural building. As such, the proposed development is considered unsustainable in location and is contrary to the housing policies of the Core Strategy.

- Seend Parish Neighbourhood Plan

Policy SP11 of the Neighbourhood Plan outlines that proposals for housing developments up to and including 9 units that contribute to the continued and sustainable growth of the Parish will be supported in principle provided that development:

- I. Accords with the limits of development provisions of the Wiltshire Core Strategy 2;
- II. Is to be delivered as a rural exception site in line with Neighbourhood Plan Policy SP10 and Wiltshire Core Policy 44; or
- III. Is a re-use of brownfield land within the rest of the Parish Area.
- IV. Is not located in the open spaces and large gardens identified in the Seend Conservation Area Strategy which would detract from the distinct open grain of Seend Village.

As identified above the proposal does not accord with Wiltshire Core Strategy Policy 2, nor is it a rural exception site. The application site is also not located within an open space or large garden identified in the Seend Conservation Area Strategy.

The submitted Planning Statement claims that the land is brownfield land within the Parish Area, stating that "whilst the application site did not form part of the application site [for the residential property of Woodpeckers under planning reference E/10/0416/FUL] for the permitted dwellings it has been used by the owners as a garden for in excess of 10 years." No information was submitted to demonstrate this claim under the previous refused application and in any event, limited information has been provided under the current application within the submitted 'Justification Statement' or any other supporting documentation. As part of the statement, the following 'evidence' has been provided: a photograph of the railway embankment; confirmation of a ground source heat pump being erected on the application site for the existing dwellings; building regulations for this heat pump; and confirmation from the neighbours of the use of the land as domestic garden.

It is disputed that this information provides the appropriate evidence that on the balance of probabilities the land has been in continuous residential use for several reasons. Firstly, the photo of the embankment fails to support the case as the former railway line is outside of the application site. In any event, the NPPF definition of previously developed land (which is brownfield land) specifically excludes "land that was previously developed but where the

remains of the permanent structure or fixed structure have blended into the landscape". As the disused railway line has been removed and has now blended into the landscape, it would not fall within the definition of previously developed land.

Secondly, it is not considered that the ground source heat pump adequately demonstrates that the whole site is in residential use. Whilst there is no evidence held by the Local Planning Authority to contradict that there is a ground source heat pump on site, this is on a very limited part of the site and does not mean that the whole field is classed as residential. It is claimed that the land cannot be used for agricultural purposes with pipes of this nature below the surface, however no information has been submitted on the precise location of these pipes in order to demonstrate that it covers the whole application site. Just because one item of domestic paraphernalia occupies a site, this does not mean that the whole field has a residential use. This evidence is not deemed adequate to demonstrate a residential use on the application site for 10 years continuously.

Finally, the submitted confirmation from the neighbours regarding the use of the land is considered inadequate in nature. This is not a sworn affidavit, including identifying what land is being claimed to be residential (such as a plan), nor are any dates provided. This 'evidence' is from a neighbour and not the applicants using the land as well and is not considered sufficient as submitted to demonstrate that there has been a 10 year continuous use for residential purposes

Due to this lack of evidence, the Local Planning Authority cannot state that there is clear evidence on the balance of probability that the use of the land has been residential for over 10 years in a continuous use. Best practice would be for a certificate of lawfulness application to be submitted in respect of the site which provides additional information to back the claims, including sworn affidavits, photos etc for the Local Planning Authority to assess.

It is noted that the Parish Council have also claimed through local knowledge of the site that they consider the site to be an existing garden. This carries no weight in the assessment, as whilst it may be currently used as garden land, there is no demonstration that there has been a 10-year continuous residential use to be lawful. Again, the parish council's comments are not in the form of a sworn affidavit, with no dates or relevant information, and thus cannot be considered evidence to demonstrate the 10 year continuous use.

Even when considering public information readily available, including street imagery, this demonstrates that in 2009 the land was agricultural in nature; then in October 2011 the land was used as a construction workers' compound for the adjacent dwelling (so not clear evidence it is residential). Then the next imagery is April 2021. It is therefore considered that due to the lack of evidence submitted the Local Planning Authority does not consider this land as residential, but it is lawfully agricultural. The land is therefore not deemed 'brownfield' land and is contrary to Policy SP11 of the Neighbourhood Plan. It should also be noted that in the instance that the land was deemed residential, it is not considered that the land would be 'previously developed land' as due to the nature of Sells Green as a settlement the land is a built-up area and thus would not be considered previously development land when considering the definition within the NPPF.

#### National Planning Policy Framework and Housing Land Supply

The NPPF is a material consideration in the decision-taking process. The NPPF sets out the Government's planning policy for England and places sustainable development at the heart of the decision-taking process incorporating objectives for economic, social and environmental protection. These objectives seek to balance growth and local community needs against protection of the natural, built and historic environment.

In providing for sustainable development, the NPPF requires Local Planning Authorities to identify a five-year supply of specific deliverable sites to meet housing needs. Against this requirement, at the current time, the council is unable to demonstrate that it has 5 years' worth of deliverable sites. This means that policies relating to housing delivery in the Core Strategy, and made Neighbourhood Plans (subject to consideration against paragraph 14 of the NPPF) are currently considered to be out of date and are afforded limited weight in the decision-taking process. Planning applications for new housing therefore have to be considered in line with paragraph 11 of the NPPF which states that where relevant policies are considered out of date permission will be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

For rural housing, paragraphs 78-80 of the NPPF are the most relevant to the consideration of this proposal for a new dwelling. Paragraph 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the viability of rural communities. Furthermore, Paragraph 80 of the NPPF states that planning decisions should avoid development of isolated homes in the countryside unless certain identified circumstances criteria (criterion a-e) apply.

In addressing the proposed development, the first consideration is whether the site is in an isolated location. In this instance, the application site is located to the edge of a cluster of dwellings forming the hamlet of Sells Green. This cluster is considered to be a meaningful collection of dwellings to form a 'settlement' for purposes of considering the Braintree case law (Braintree DC v SSCLG [2018] Civ 610) and the application site, in this instance, is not considered isolated in nature.

Whilst the site is not considered isolated, attention is turned back to paragraph 79 which states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for village to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby."

In this regard, planning policy contained within the Wiltshire Core Strategy has identified opportunities for villages to grow and thrive, through Core Policies 1 and 2 which identifies areas of where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. This approach is to provide the sustainable development, in particular due to the intention to reduce the need to travel (an approach agreed by Planning Inspectors such as within APP/Y3940/W/21/3280947).

It is noted that the site is located within an area with very limited services and facilities. Sells Green does have a public house 'The Three Magpies' however it has no other facilities or services for daily living and thus travel to other settlements are required (such as schools, shops, amenity areas or places of worship etc.). It would be expected that occupants would go to Melksham or Devizes for these services and facilities, although there are a small number of facilities at the settlement of Seend. Given the distances to these settlements and the nature of the routes (which will be commented upon below) it is not considered that the application site is in a sustainable location.

When considering routes to the wider settlements, there are no Public Right of Ways that could be utilised by any future occupants. Consideration has been afforded to the public highways, however it is noted that the application site would be located from a public highway

with no footpaths and is unlit in nature. The unpaved nature is only for approximately 75 metres (when going southward) however due to the rural nature and the close proximity to the highway junction, this route would deter users from walking south and there would also be highway safety concerns in that regard. It is noted that Parish Council raised that there are no pavements outside Woodpeckers and The Lodge so this 'should not be an issue with these two new houses'. It is reminded that the application for the neighbouring dwellings were constructed under the previous development plan and was on an existing residential site (the previous dwelling was removed and replaced with two dwellings). Due to the existing dwelling on that site, it would have not been considered reasonable to object to the lack of pavements. This application however is changing a lawful agricultural use into residential, further away from the highway junction, on an unsafe road for pedestrians. The previous application is therefore not afforded strong weight in this matter and does not mitigate the concerns in this regard.

With regard to cycling, the Department for Transport white paper, Creating Growth, Cutting Carbon, highlights the need to manage the existing road network more efficiently and how cycling has an important role to play. The Department for Health also has stated how important cycling is. Cycling is advantageous in three key areas:

- As a sustainable alternative to the car;
- As low cost transport; and
- As a means of encouraging physical activity in our increasingly sedentary society.

Cycling has the potential to be a viable substitute to car trips of up to 5km. Average speeds are thought to be ~24 kmh. In this regard Seend and the edges of Melksham and Devizes are situated within the 5km area. Whilst this is noted, given the nature of the highway of the roads, and notably the A361 which would need to be utilised, this is not considered suitable for the majority of cyclists. The A361 is unlit and primarily at the national speed limit, which would deter all but the most experienced of cyclists.

In relation to bus stops, the closest to the site would be on the A361 circa 168 meters away. Whilst the bus stops are noted, the routes to these are not a convenient with no immediate pavements outside the site and lighting etc. as addressed above and therefore is not considered to mitigate the concerns over the siting of the dwellings and there would be an overreliance of the use of a private car for future occupants.

It is therefore considered that due to the conflict with Core Policies 1 and 2, it is considered that the site is unsustainable when taking account the approach to the sustainable pattern of development contained within the Core Strategy (which whilst has reduced weight due to the absence of a 5 year housing land supply, still has some weight) and the site's access to services, facilities and sustainable transport modes being poor. The siting results in conflict with Core Policies 1 and 2 which focuses development towards settlements and also considered to conflict with the NPPF in relation to sustainability, sustainable transport and climate change.

In particular under Section 9 of the NPPF promotion of sustainable transport is sought. Within paragraph 110 it outlines that applications for development should ensure that appropriate opportunities to promote sustainable transport modes can be taken up. Given the reliance of the use of a private car as above, the proposal is considered contrary to this part of the NPPF and the environmental objective of the NPPF under paragraph 8 which outlines:

- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and

mitigating and adapting to climate change including **moving to a low carbon economy** [officer emphasis].

Matters of accessibility are also balanced against the wider sustainable development objectives. Economically the proposed development would encourage development and associated economic growth through the building works. The future occupants would also contribute to the local economy and to the continued viability of local services in surrounding villages. However, as this proposal applies for an increase of two dwellings only, the economic role of the development is therefore considered to be limited.

In terms of the social objective, the provision of two dwellings in this location would not make a significant contribution to the Council's housing supply position. However, the development would provide two new dwellings, create the opportunity for the site to develop social and community ties within the area and facilitate future community involvement.

Finally, with regard to the environmental objective of this development, as above the matter of accessibility is considered to be contrary to this objection insofar as it places emphasis on accessible services and adaption to climate change through a move to a low carbon economy. However, in relation to the other matters outlined within the environment objective the proposal could reasonably be expected to demonstrate a degree of inherent sustainability through compliance with Council supported energy efficiency and Building Regulations standards and the requirement to provide net gain in biodiversity.

- Neighbourhood Plan

Whilst the site is not considered 'isolated' however is considered unsustainable due to the reliance on the use of a private vehicle, consideration has been given towards the Neighbourhood Plan and the weight provided towards the Policies contained within it. Paragraph 14 states that "In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a) The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
- b) The neighbourhood plan contains policies and allocations to meets its identified housing requirement;
- c) The local planning authority has a least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
- d) The local planning authority's housing delivery was at least 45% of that required over the previous three years."

In relation to criterion a), the Seend Neighbourhood Plan was made in 2021 and thus became part of the development plan less than two years before the date of this decision. This part is met.

Regarding to criterion b) the Seend Neighbourhood Plan has a housing policy (Policy SP11 as previously mentioned). It is however noted that this neighbourhood plan does not have any allocations. As outlined within the Neighbourhood Plan and the Wiltshire Council Housing Land Supply Statement (2019) the indicative housing requirement for the community area (Melksham) has been exceeded for the plan period (to 2026). Thus, whilst there are no allocations within the adopted Neighbourhood Plan due to the community area exceeding the indicative housing requirements (and thus arguably the identified housing requirements have

already been met), and the provision of a housing policy, it is deemed that criterion b) has been substantially met.

With regard to criterion c) whilst the Local Planning Authority does not have a five-year supply (as referred to previously) it does have a three year supply of deliverable housing and therefore this is met.

Finally in relation to criterion d) it is confirmed that the housing delivery of the Local Planning Authority was at least 45% of that required over the previous three years. As such when considering paragraph 14, it has been substantially met and it is considered that unsustainable siting contrary to the conflict with the neighbourhood plan housing policy would significantly and demonstrably outweigh the benefits.

#### · Summary on the principle of development

The principle of the proposed development would be contrary to the Development Plan, notably Core Strategy 1, 2 and 15 and well as Policy SP11 of the Seend Neighbourhood Plan. However, as set out above, the Development Plan is currently considered to be out of date given the Council's inability to demonstrate 5 years' worth of deliverable sites. In having regard to the NPPF, particularly paragraph 8 in relation to sustainable development and paragraph 79 in regards to Rural Housing, the application site is considered unsustainable in location, and thus would not accord with the aims within the NPPF. It is also considered that paragraph 14 of the NPPF is substantially met and thus proposal being contrary to Policy SP11 would significantly and demonstrably outweigh the benefits.

Further discussion is also had within the planning balance taking into account other material considerations, which are addressed within the sections below.

#### Design and Visual Impact

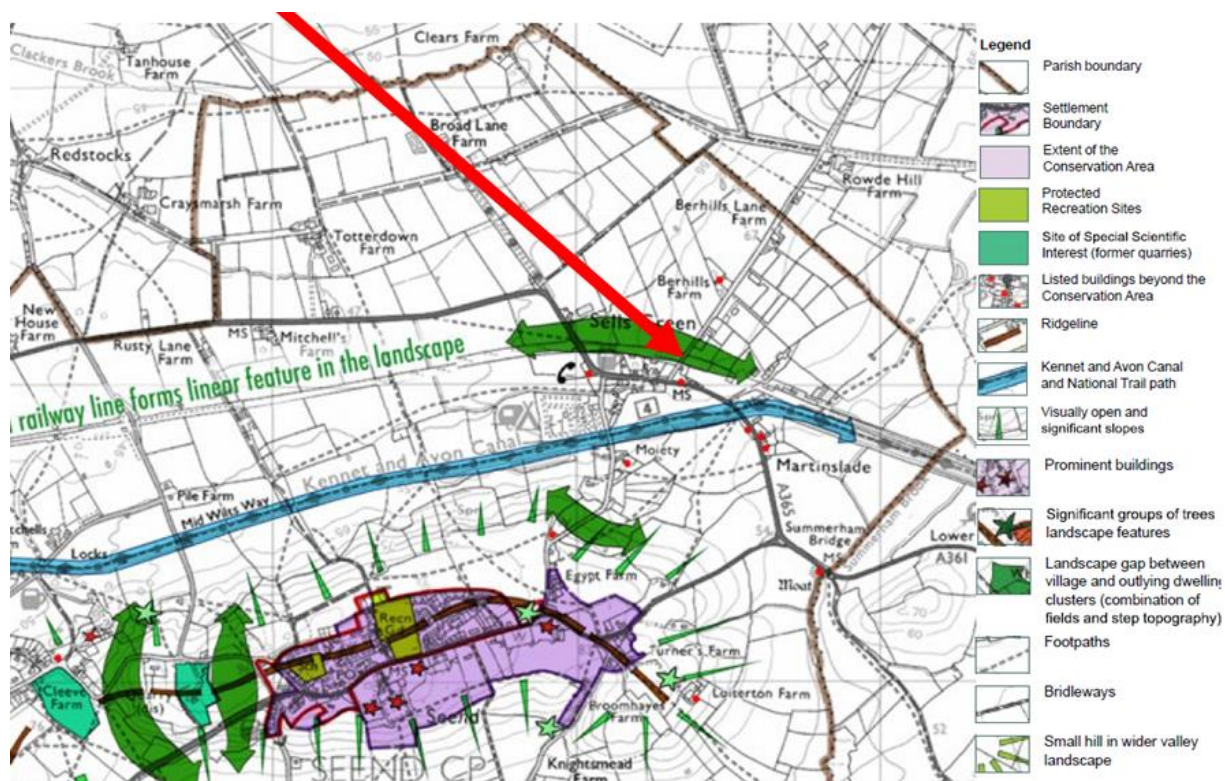
Core Policy 57 requires a 'high standard of design' for all new developments and to draw on the local context and be complementary to the locality. Core Policy 51 requires that development should protect, conserve and where possible enhance the landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

Within the Neighbourhood Plan Policy SP4 outlines that development must demonstrate how the proposal responds sensitively to the Parish character including key features identified on Figure 9.

The application site is located within a rural area, beyond the edge of the existing meaningful collection of dwellings forming the settlement of 'Sells Green'. The existing field does have a degree of residential character since there is a residential outbuilding present on site, however as outlined previously within this assessment, this use is not lawful, nor has it been adequately demonstrated that the use of the land has occurred continuously for over 10 years (and thus is immune from enforcement action). It is therefore deemed that this land is a lawful agricultural use.

In considering the landscape impact from the development the provision of two new dwellings, with the access and residential paraphilia is considered to be harmful to the rural character of the area and street scene. The existing built form comprising Sells is varied in scale, however all relates to the existing built form cluster. The proposed new two dwellings would however be extending the built form of the settlement into an existing landscape 'gap' which characteristics the area and provides the transition area between Sells Green and the countryside (and the sporadic development to the north).

With regard to the Neighbourhood Plan, Policy SP4 refers to key features identified on Figure 9. A clip of figure 9 is below with the application site identified:



It is clear that the provision of the two dwellings would be located within this identified landscape gap (and recently adopted being a Neighbourhood Plan made in 2021) which follows the disused railway line. The Neighbourhood Plan Policy outlines that proposals must demonstrate how they respond sensitively to the landscape character, including the key features identified. Under paragraph 5.25 of the Planning Statement the landscape gap is discussed by the agent and only provides weight to the fact that the application site is residential garden (which as assessed previously is not lawfully agreed) and is well screened by mature planting that means 'visually it appears part of the linear strip of development that includes Woodpeckers rather than as part of the open countryside'. In this regard too much weight has been afforded to the fact the field is enclosed in nature and is residential garden. The Local Planning Authority consider this land agricultural use and the identified landscape gap is not linear along the road but is from west to east around the disused railway line. The dwellings would encroach into this identified landscape gap into the countryside. Although views to the dwellings would only be afforded from Berhills Lane (not the referenced Deblins Lane in the Planning Statement), the provision of the dwellings would still adversely elongate the built form into the countryside into the identified landscape gap.

It is not considered that the provision of the two dwellings would conserve or enhance the character and local distinctiveness of the Parish landscape, impeding on an identified landscape gap and transition area between Sells Green and the wider countryside and adversely elongating the settlement into the countryside. The proposed new access would unacceptably 'open up' the agricultural site with a new access and hardstanding. No details have been submitted regarding the boundary treatment and access gates outlined and this would be controlled by way of condition if the scheme was otherwise acceptable. The domestication of the site with residential paraphernalia, built form and an urban layout would

be harmful to the character of this rural area and would be in conflict with the Development Plan Policies.

Whilst the principle of dwellings on this agricultural site is considered unacceptable due to the removal of the characteristic agricultural field in this valuable landscape gap, consideration has been afforded to the submitted design and layout of the new dwellings.

Firstly, when considering the location of the dwellings within the site, the two new dwellings would not be sited adversely forward of the existing building line to the south. It is noted that the dwellings are actually sited further back from the highway than the neighbouring dwellings (including Woodpeckers) to the south however this is not considered unacceptable. It is also considered that the spacing between the dwellings (the two proposed as well as the space to Woodpeckers) is also not unacceptable and would not result in a cramped overdeveloped form of development.

It is however considered that the layout of the site with the driveway/access running between the dwellings with parking to the rear of the site, has a harmful 'urban' appearance which is not in keeping with the character or pattern of the area. A significant amount of hardstanding is proposed on the site as a result of this design, which is harmful in this rural area. It is noted that from the street scene there would technically be less hardstanding being visible from the public vantage points, however the view down the driveway (when the gates are open in particular) is considered unacceptably urban in character and not reflective of other arrangements in the locality.

In relation to the design and appearance of the dwellings, the area is mixed in design and scales and thus in considering the design of the dwellings (notwithstanding the harm already identified through the siting) the proposal is considered acceptable. The dwellings are deemed large however given the mixed character of the area, the main bulk which would be to the rear with limited views afforded from the public realm, and the fenestration design on the front elevation, it is considered of acceptable quality. The proposed materials would comprise brickwork, oak framing and render infill panel walls and both clay plain tiles and slate tiles to the roofing. In principle these materials are acceptable, however it would have been deemed necessary and reasonable to control the details of these materials if the application was otherwise being recommended for approval.

Therefore, the proposed development would, by virtue of the design, layout and siting of the dwellings and residential plots, together with the associated residential paraphernalia within the open countryside, be harmful to the visual amenities and landscape character of the area. As such the proposal would not be sympathetic, nor enhance the character or amenity of the area and cannot be successfully integrated within the landscape and surrounds. The proposed development is therefore contrary to the National Planning Policy Framework (2021), Core Policies 51 and 57 of the Wilshire Core Strategy as well as Policy SP4 of the Seend Parish Development Plan.

### Residential Amenity

Core Policy 57 criterion vii) outlines that there needs to have regard to the compatibility of adjoining buildings and uses, including the levels of amenity of existing occupants.

- Amenity of future occupants

The proposed internal layout the proposed dwellings would allow adequate light to allow habitable rooms and the amount of amenity space would be sufficient for the enjoyment of the future occupants.



It is noted that within the plans submitted under the current application (as opposed to the previously refused scheme) that no boundary treatment is sought around the private amenity spaces of the dwellings and thus it appears there would be an open layout to the rear of the site. This is considered unacceptable as would not allow adequate private space for each dwelling. It is however deemed that boundary treatment (a notwithstanding the documents submitted details of the positioning and design of boundary treatment) could be controlled by way of planning condition and thus it is not considered reasonable that the lack of boundary treatment on the plans would constitute a reason for refusal in this instance. With this condition (in the event the application was being recommended for approval) the impact on the amenity of the future occupants would be acceptable.

- Residential Amenity

The proposed development is not considered to give rise to any unacceptable impacts upon neighbouring amenities.

With regard to the existing dwellings in the area, by virtue of the intervening distance (whereby the closest dwelling of Woodpeckers would be circa 21 metres away) there would be no adverse overbearing effect, loss of outlook, overshadowing or loss of light from the development. With regard to overlooking, it is noted that a first floor window is sited on the southern elevation of 'cottage one' which would have an outlook towards the neighbouring dwellings to the site. Although this is noted, the use of this room is an en-suite and thus in the instance the application was being recommended for granted, it would be necessary to control this window to be obscure glazed only to prevent any adverse overlooking or loss of privacy. Any outlook from the rear and front elevations would be oblique in nature and thus not considered harmful.

Consideration has also been afforded to the impacts of each new dwelling against one another. It is considered that given the distance of circa 6 metres between the closest points of the dwellings, there would be no adverse overbearing effect or loss of outlook. Whilst there would be some overshadowing generated from cottage one to the cottage two site, given the intervening shared driveway there would be no significantly adverse impacts in this regard. There are no first-floor windows facing each other (cottage one northern elevation, cottage two southern elevation) and thus there would be no significantly adverse overlooking or loss of privacy. There would be some views from the front/rear elevations however this would be oblique in nature and is acceptable. The proposed development is therefore considered acceptable in terms of its impact upon residential amenity.

### Highways

- Locational sustainability

Core Policy 60 and 61 aim to direct development to accessible locations where it is 'located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives'.

As addressed within the NPPF section above, the application site is considered unsustainable in terms of its access to facilities and services including public transport modes. As there would be a reliance of the private car, the proposal is considered to be contrary to Core Policy 60 and 61.

- Access and Parking

The proposal comprises two new three bedrooled dwellings with the provision of parking and a new access. The Local Highway Authority have commented on the application which has

raised that due to the low number of vehicle movements associated with two residential units, it is considered that the highway network is able to accommodate the additional movements. As such there is no objection in terms of traffic generation.

It was noted from the Highway Officer that the layout provides the required two vehicular spaces per dwelling (due to being three bedroomed dwellings) including a turning area and electric charging point. As such no objection was raised subject to conditions and an informative. These would have been imposed if the application was being recommended for granted. With the conditions, no objection on highway grounds is raised.

It is noted that an objector raised concerns about the access onto Berhills Lane, noting that an objection was raised to their application (planning reference PL/2022/00333) by the Highway Authority which sought access for a new dwelling on land adjacent to 15 Sells Green which connected to Berhills Lane. In this regard it should be noted that the Highway Officer objected to the increased use of a substandard access by virtue of its poor visibility and traffic generation on this private track/road which by virtue of its inadequate width, alignment and junction was considered unsuitable to accommodate the increase of traffic that would have been generated by the new dwelling. The objection was related to the poor access and private track already present connecting to Berhills Lane. The access in this instance has been considered acceptable onto Berhills Lane as it has the acceptable visibility splays etc. not to generate any adverse highway safety concerns.

### Ecology

Within the Neighbourhood Plan, Policy SP5 outlines that proposal should demonstrate (where relevant) how green infrastructure within and around the development site has been incorporated into the scheme in order to increase function and improve connectivity of green infrastructure through the site and beyond to identified priorities and assets (criterion i); and a Biodiversity Enhancement Plan to demonstrate the protection and enhancement of existing habits, accompanied by biodiversity calculations obtained using Natural England's most up to date version of the Biodiversity Metric in order to quantitatively demonstrate the minimum biodiversity net gain of 10% within, and where appropriate, beyond the site (criterion ii).

Regarding green infrastructure, due to the modest nature of the plot it is considered that there is limited opportunity for improving the connectivity of green infrastructure through the site and beyond. There is however an essential need to ensure there is an acceptable impact to the field boundary hedgerow/treelines which is considered to have ecological value and could be a habitat corridor. In this regard soft landscaping treatment to the northern boundary in particular is a requirement to not adversely impact this corridor and soft landscaping is incorporated (which further details would be controlled by way of planning condition if otherwise recommended for approval). It is further considered that a Construction Environmental Management Plan would have been requested in the instance the proposal was deemed acceptable to ensure that protection is gained through construction works to the potential habitat woodland to the boundaries. With these conditions there is therefore no objection to part i).

In relation to criterion ii) no biodiversity information has been submitted with the application, including the biodiversity metric. Although this is noted, given the existing use of the site and historic railway use, it is deemed that the principle of development would be acceptable. It is therefore considered that in this instance, that a biodiversity enhancement plan could be controlled by planning condition if the application was otherwise being recommended for approval.

### Refuse and Recycling

No refuse storage area has been demonstrated on the submitted plans, however there is ample space within the site to accommodate refuse bins and thus no objection in regard in this regard. A bin collection point has been identified adjacent to the access point and this arrangement is considered acceptable and in keeping with the existing arrangements in the locality. There is no objection in this regard.

### S106 contributions/CIL

The property will be CIL liable charged at the standard council rate.

### Conclusion/Planning Balance

The site lies within a collection of dwellings which forms Sells Green, which falls within the Melksham Community Area, however the settlement is not identified for any type of growth by the settlement strategy (set by Core Policy 15 'Spatial Strategy; Melksham Community Area'). Therefore, for the purposes of accessing the planning merits of the proposal, the site falls within the 'open countryside' and does not apply with Core Policies 1 and 2. The proposal does not fall within any of the WCS exception policies. The development is also considered to be contrary to Policy SP11 of the neighbourhood plan as addressed within the report.

Whilst it is considered that the principle of development does not comply with the policies contained within the development plan, as set out above, the council cannot currently demonstrate a deliverable five-year supply of housing. The housing policies are therefore out of date as it relates to the supply of housing. The application must therefore be considered in accordance with paragraph 11(d) of the NPPF which states that where relevant policies are considered out of date permission will be granted unless the application of policies in the Framework that protected areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The proposed site is not located within any protected area. Paragraph 11 d) ii) is therefore engaged whereby the policies of the NPPF are taken as a whole. In this instance the site is not considered isolated in nature however is not considered sustainable due to the reliance of the use of the private vehicle. It is also considered that there is significant harm generated from the siting of the dwellings in the identified landscape gap, and transition area to the countryside which adversely elongates the existing built form of Sells Green. The harm generated to the character of the area in this unsustainable location is considered to significantly and demonstrably outweigh the minor benefits of two new dwellings (which would not in particular make a significant contribution to the Council's housing supply position), when assessing the policies of the NPPF taken as a whole. It is also considered that the development being contrary to the Neighbourhood Plan housing policy is also considered to significantly and demonstrably outweigh the minor benefits, in line with Paragraph 14, noting that the criteria has been substantially met.

### **RECOMMENDATION:**

That planning permission be REFUSED for the following reasons:

1. The proposed development, involving the erection of two dwellings outside of the defined Limits of Development, would conflict with the Settlement Strategy for Wiltshire, as set out in Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy and Policy SP11 of the Seend Parish Neighbourhood Plan. With significant weight

being afforded to the Seend Parish Neighbourhood Plan in line with Paragraph 14 of the National Planning Policy Framework, which directs development to the Limits of Development, the re-use of brownfield land or a rural exception site, the harm of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the policies in the National Planning Policy Framework (2021) as a whole (paragraph 11 d) ii). There are no exceptional circumstances or material considerations which justify a departure from the development plan and National Planning Policy Framework and the approval of the proposed development. It would therefore be contrary to the Core Policies 1 and 2 in the Wiltshire Core Strategy, Policy SP11 of the Seend Parish Neighbourhood Plan and the identified paragraphs of the National Planning Policy Framework.

2. The proposed development, by reason of the siting, design and layout of the dwellings and residential plots together with the associated residential paraphernalia within the open countryside, would be harmful to the visual amenities of the area and to landscape character. As such, the proposal would not be sympathetic to nor would it enhance the character and appearance of the area. Furthermore, it could not be successfully integrated within the landscape and elongate the existing built form into an identified landscape gap. The proposed development is therefore contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy, Policy SP4 of the Seend Parish Neighbourhood Plan and the National Planning Policy Framework (2021).
3. The proposed development, by reason of the distance to local services, facilities and amenities, would likely result in heavy reliance on the use of private motor transport for the majority of day-to-day activities, which is in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the National Planning Policy Framework (2021).